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HUMAN RIGHTS AND DEMOCRATIZATION IN POLAND

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**A Report Prepared by the Staff of the
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ABOUT THE ORGANIZATION (OSCE)

The Conference on Security and Cooperation in Europe, also known as the Helsinki process, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. Since then, its membership has expanded to 55, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia. (The Federal Republic of Yugoslavia, Serbia and Montenegro, has been suspended since 1992, leaving the number of countries fully participating at 54.) As of January 1, 1995, the formal name of the Helsinki process was changed to the Organization for Security and Cooperation in Europe (OSCE).

The OSCE is engaged in standard setting in fields including military security, economic and environmental cooperation, and human rights and humanitarian concerns. In addition, it undertakes a variety of preventive diplomacy initiatives designed to prevent, manage and resolve conflict within and among the participating States.

The OSCE has its main office in Vienna, Austria, where weekly meetings of permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations and periodic consultations among Senior Officials, Ministers and Heads of State or Government are held.

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The Commission consists of nine members from the U.S. House of Representatives, nine members from the U.S. Senate, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair are shared by the House and Senate and rotate every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

To fulfill its mandate, the Commission gathers and disseminates information on Helsinki-related topics both to the U.S. Congress and the public by convening hearings, issuing reports reflecting the views of the Commission and/or its staff, and providing information about the activities of the Helsinki process and events in OSCE participating States.

At the same time, the Commission contributes its views to the general formulation of U.S. policy on the OSCE and takes part in its execution, including through Member and staff participation on U.S. Delegations to OSCE meetings as well as on certain OSCE bodies. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from OSCE participating States.

HUMAN RIGHTS AND DEMOCRATIZATION IN POLAND

INTRODUCTION AND SUMMARY

Opposition to communism in Poland, like opposition to foreign rule during long periods of occupation, historically enjoyed relatively wide popular support, culminating in the foundation of the Solidarity labor movement in 1980. In fact, in no other part of the Soviet bloc did an independent opposition have such deep roots and, ultimately such a broad sweep through virtually every segment of society.

In spite of the martial law crack-down in 1981-82, Poland traditionally boasted one of Eastern Europe's more progressive regimes. By the mid-1980's, Poland's communist leaders were in the process of undoing the legacy of martial law, as well as moving the country towards greater respect for human rights and fundamental freedoms in general. By 1988, a lively and diverse independent media flourished, there were no known political prisoners, a civil rights commissioner had been appointed to oversee the protection of civil rights, and the freedoms of speech, assembly, and movement had significant de facto respect. The last comprehensive report prepared by the Helsinki Commission on Poland's implementation of its human rights commitments was issued in 1988, on the cusp of this profound transition.

The overwhelming popular support for the Solidary movement—which could be manifested in crippling protest strikes—finally enabled it to represent society as a whole at historic round-table talks with the communist regime in 1989. The agreement that resulted from those negotiations formally legalized Solidarity and paved the way for a limited number of parliamentary seats to be contested in the first free and fair elections in the Warsaw Pact. Moreover, these talks paved the way for the first peaceful relinquishment of power by communists in European history.

With this legacy, it is not surprising that, of the East European countries making the transition to democracy, the Republic of Poland has perhaps come the farthest toward that amorphous goal: human rights in that country, while not always fully respected, enjoy wide protections both in theory and practice, with opportunities for both legal and political recourse when those protections fail.

Nevertheless, every country can improve its human rights record and Poland is no exception. A few practices remain that are jarringly out of sync with Poland's otherwise strong record, particularly regarding freedom of speech and the independence of the media. On net, however, Poland has crossed the Rubicon and, barring external interference, a complete reversal of its democratization progress seems no more likely than in many Western countries.

BACKGROUND

Opposition to communism has a long and celebrated history in Poland. Throughout the post-World War II period, Poland experienced a series of political movements that propelled the country toward greater political freedom. Although reform efforts were usually followed by a reactionary crack-down, each had a long-term effect of slowly but surely moving the country away from orthodox communism. In no other part of the Soviet bloc did an independent opposition have such deep roots and, ultimately, such a broad sweep through virtually every segment of society.

Resistance to communism reached unprecedented heights with the establishment of the Solidarity labor movement in August 1980, a breathtaking organization that earned the loyalty of ten million members and the respect of people around the world for its clear articulation of its goals, its commitment to human rights and fundamental freedoms, and its non-violent methods for achieving them. In recognition of the significance that the Solidarity movement had not only for Poland but for East European opposition in general, one of its founding leaders, Lech Walesa, was awarded the Nobel Peace Prize in 1983.

Solidarity's growing popularity ultimately represented too great a threat to the prevailing regime and, as was the case with other reform efforts before it, the regime ultimately took action against it. At midnight, on December 13, 1981, General Wojtech Jaruzelski introduced martial law. Overnight, Solidarity became an illegal organization, thousands of people were arrested, independent publishing houses throughout the country were raided, Poland's borders were closed, telephone lines and mail service were completely cut, political and civil rights were severely curtailed on a massive scale, and constitutionally created government bodies were replaced by a "Council for National Salvation." Jaruzelski explained at the time that these actions were necessary to prevent Poland from falling into an "abyss" of social unrest; later, much later, he would argue that his actions obviated Moscow's perceived need to launch what certainly would have been a far more deadly Warsaw Pact invasion to crush the Solidarity movement.

Although some martial-law restrictions remained in place for several years, the harshest restrictions lasted only a few months. Between 1983 and 1988, Poland took slow but measured steps to lift the lingering vestiges of the crackdown, often in response to concerted international pressure or the well organized dissident activity that martial law had only temporarily quelled. In particular, the exercise of the rights to freedom of movement, freedom of speech (independent publishing), and freedom of assembly (non-violent demonstrations) qualitatively improved, although a de jure recognition of these rights was often lacking. In addition, all known political prisoners were freed during this period, there were several important amnesties for former political prisoners, a civil rights commissioner was appointed to oversee the protection of civil rights, and Voice of America, Radio Free Europe and the British Broadcasting Service ceased to be jammed.

THE HUMAN DIMENSION AND THE TRANSITION FROM COMMUNISM

From Martial Law to the Rule of Law. By 1988, Poland's political situation had markedly improved in comparison to the martial law period and stood, in comparison with other Warsaw Pact countries, as relatively progressive and tolerant. Nevertheless, Poland's economy remained impervious to reform and rank and file workers were unable to gain access to the decision-making process at either the local or national level. The striking liberalization that had occurred between 1983 and 1988 was insufficient to satiate the popular appetite for reform. As a result, in April-May and August-September of 1988, strikes rolled over Poland from the Baltic Sea to the Tatra Mountains as Solidarity union activists presented a range of demands reflecting concerns of both a political (e.g., the formal legalization of Solidarity) and economic (e.g., wage increases) nature. Each time, major industries were paralyzed and the country careened closer and closer toward economic chaos.

Although the strikes did not immediately bring their intended results, they vividly illustrated the commanding support of the Solidarity movement and the increasingly weak and isolated position of the communists. After the second wave of strikes in the fall of 1988 and the unprecedented stepping down of the entire government, the need for some kind of dialogue between the authorities and the opposition was openly recognized by all sides.

For months, pre-negotiation posturing dragged on over the scope and framework that such a dialogue might take. Several times talks appeared to be imminent, only to stall out. On some of these occasions, the regime proposed patently unacceptable conditions which Solidarity would have to meet as prerequisites to discussions. Finally, so-called "round-table talks" began in February 1989. In the ensuing war of nerves, lasting for two months, the communists blinked in the face of Solidarity's overwhelming popular support.

The historic agreement reached between the communists and the democratic opposition in April 1988 included the following elements: the Solidarity trade union was re-legalized; a Senate was created to complement the existing chamber of parliament known as the Sejm; a presidency was created, to be filled by the legislature; some opposition media were legalized, including a daily newspaper and weekly television and radio shows; and agreement was reached to give the Catholic Church full legal status. Most significantly, the newly created Senate would be openly contested in elections to be held in June 1989, as would 35 percent of the seats in the Sejm.

The stunning implications of this agreement immediately marked it as one of the watershed human rights events of the post-World War II era. It would be another year before the CSCE—inspired in part by events in Poland—would establish standards requiring free and fair elections; in Moscow, Mikhail Gorbachev was still struggling to give his slogans glasnost' and perestroika meaning. Poland's round-table talks not only sounded the first death-knell for the form of totalitarianism that had subjugated half of Europe for half a century; even more striking, it paved the way for the first peaceful relinquishment of power by Soviet-backed communists in European history.

Free and Fair Elections: 1987-89. The decision to permit some parliamentary seats to be freely contested could not have been made naively by the communists, as Poland had already experienced some degree of freedom at the polls in November 1987. At that time, in an attempt to solicit support for price increases—and thereby hopefully avoid the political upheavals and violence which had accompanied some previous price hikes in Poland—the government held Poland's first referendum in forty years and the first free and fair elections in the Warsaw Pact.

The 1987 referendum had one question, calling for an up-or-down vote on an accelerated economic-reform package. Although the referendum question was, on its face, cast in mother-and-apple-pie terms that were hard to find objectionable, the election became a symbolic vote of confidence in the government. Solidarity called for an election boycott and even OPZZ, the official trade union, expressed its reservations; as a result only 67 percent of the Poles eligible to vote turned out for the referendum with two-thirds voting in support of the government's proposal. Although this would be a respectable showing by many standards, it was a far cry from the virtually unanimous support communist-era elections traditionally commanded. Moreover, the government's proposals lacked the support of a simple majority of those eligible to vote and were therefore defeated according to Polish law.

Under the terms of the 1989 round-table agreement, contested parliamentary elections were held on June 4, 1989, only two months after agreement in principle to hold them had been reached. Although it was expected by many that Solidarity candidates would do well, there were in fact substantial obstacles confronting them. To begin with, independent opposition candidates had only a few weeks to get the required 3,000 verified signatures in order to have their names placed on the ballot and some opposition candidates failed to get enough signatures. Once on the ballots, names were listed in alphabetical order, with no

affiliation indicated. Solidarity representatives were concerned that it might be difficult for voters to learn who all the opposition candidates were in the few weeks between the time when the ballot list was finalized and the election. As a result, Solidarity election tactics were sometimes crude, but effective. For example, each Solidarity candidate had his or her picture taken with Lech Walesa, and the simple phrase beneath: "We must win." Finally, a complicated voting process created the danger that many votes might be invalidated.

The clear mandate given to Solidarity in its overwhelming victory surprised even the most optimistic. In the Senate, Solidarity won 99 out of 100 seats—the remaining seat went to Henryk Stoklosa, an independent candidate who later became a multimillionaire in Poland's emerging private sector. In the Sejm, the communist leadership managed to lose even some of the uncontested seats which it had been "guaranteed" as a concession at the round-table. At the insistence of the communists, voting procedures required that winning candidates must receive at least 50 percent of the total number of votes cast. What the communists failed to anticipate was that voters, after making their selections for those seats which were truly contested, would then turn to the "national list" (uncontested) seats and vote against every single name (by crossing it out), even though there was no one to vote for.

The round-table agreement and the apparent success of the June elections notwithstanding, many communists were still left in power in the summer of 1989 and, potentially, still able to reassert control over the government and reverse Solidarity's human rights gains. Some observers at the time speculated that these residual elements might ultimately derail the reform gains that had been achieved.

But the communists' accession to the round-table agreement signified a genuine understanding that the premises upon which they had held power were fundamentally flawed and no longer tenable. Moreover, those communists who retained their places in the 1989 parliament solely because they held uncontested seats understood this: although they had not been freely voted into office, they could be freely voted out of office in the next scheduled elections, at which time all seats would be up for grabs. This political lesson was not lost on the many communists who would be reincarnated as the "Democratic Left Alliance" in the 1993 elections, and was evidenced early on during the negotiations over the make-up of the cabinet.

Prime Ministers and Presidents: 1989-90. After the parliamentary elections in June 1989, General Wojtech Jaruzelski was elected president by the parliament by a vote of 270 to 233, with 34 abstentions; with 537 legislators present, Jaruzelski received the bare minimum with which he could win. Jaruzelski, as president, was then tasked with forming a government.

Although Solidarity leaders were generally reconciled to the idea of a communist president—believing that it was true to the spirit of the round-table compromise as well as, at that time, necessary to placate the Soviets—during the summer months, the seeds of a Solidarity government were planted by senior opposition leader Adam Michnik, put forward under the slogan "Your President, Our Prime Minister."

At first, the notion of a Solidarity Prime Minister—let alone a Solidarity government—was met by wide-spread skepticism, even within the ranks of Solidarity. But by the time of the election of General Czeslaw Kiszczak as Prime Minister on August 2, frustration with the communists was growing. During the summer months, top party posts had been merely reshuffled in response to the popular demand for change. This game of musical chairs fostered the view that the communists were promoting the appearance of

change without real change, and that such people would be unable to lead Poland out of crisis. Against this backdrop, Michnik's proposal began to take root and demands for a non-communist government grew. Finally, on August 17, Kiszczak resigned.

Although the time was not yet ripe for Walesa to formally assume Poland's leadership himself, he submitted three recommendations for a new Prime Minister to Jaruzelski. One of those candidates, a lesser-known Catholic intellectual named Tadeusz Mazowiecki, was confirmed as Poland's first non-communist Prime Minister on August 24, 1989, by a vote of 378 to 4, with 41 abstentions. The parliament, still nominally controlled by communists, voted in Mazowiecki's non-communist cabinet on September 12, by a vote of 420 to 0, with 13 abstentions.

Although Wojtech Jaruzelski had been elected by the Sejm to a six-year term, in April 1990 Lech Walesa let it be known that he was ready to seek the position for himself. In September, Jaruzelski re-signed, paving the way for direct elections of a new president. Six candidates ultimately vied for the presidency: Lech Walesa; Tadeusz Mazowiecki, Walesa's hand-picked candidate for prime minister; Peasant Party leader Roman Bartoszcze; Social Democrat (and ex-communist) Wlodzimierz Cimoszewicz; Leszek Moczulski, leader of the right-wing Confederacy for an Independent Poland, and a Polish-born millionaire (with Canadian, Peruvian and Polish citizenship), Stanislaw Tyminski.

At the outset, the race seemed to be a contest between Walesa and Mazowiecki. But Tyminski ran a charismatic campaign under the slogan "Neither one or the other: vote Tyminski," appealing to those dissatisfied with both leading candidates. Although Tyminski was widely viewed as a potentially dangerous eccentric lacking a substantive platform, the election results on November 25 proved shocking: Lech Walesa, the popular leader of the Solidarity movement, garnered a mere 39.96 percent of the vote while Tadeusz Mazowiecki, the competent if lack-luster prime minister, won a mere 18.08 percent. Tyminski, the dark horse, had managed to win 23.1 percent the vote, forcing an embarrassing run-off between himself and Walesa on December 9.

The success of the "Tyminski factor" created the specter of a post-Cold War Europe in which fringe candidates might emerge as significant, even decisive, political forces. In the run-offs, however, Walesa left Tyminski with just under a quarter of the vote. Three years later, in the 1993 parliamentary elections (see below), Tyminski's "Party X" was a spent force, earning a dismal 2.74 percent.

The Drive for Democratization. After the watershed events of 1989, free and fair elections in Poland have become the norm: local elections were held in May 1990 (the first free local elections in post-WWII Eastern Europe); presidential elections in November-December 1990; and elections for the full parliament were held in October 1991 and again in September 1993.

Although these elections were held without any significant procedural problems, some observers feared that their substantive results bore the seeds of the undoing of Poland's democratic reforms. For example, of the 69 parties competing in the October 1991 elections, 29 were seated with no party garnering more than 14 percent of the vote. One writer acerbically described the resulting coalition as "a 13-party amalgam of rabid anti-Communists and Roman Catholic nationalists," and many feared that the legislature would be too factionalized to govern effectively. In fact, within the space of two years Poland had five prime ministers and four coalition governments, each of which was too weak to resolve fully the

most contentious issues facing Poland, such as large-scale privatization and comprehensive constitutional revision. Nevertheless, these governments showed a remarkable consistency in their overall approach to both domestic reform and foreign policy.

Furthermore, during this time Poland accelerated its democratization and rule of law reforms. Among the most significant recent developments were the following:

A so-called "Little Constitution" was adopted on October 17, 1992. Although the parliament has yet to undertake the full-scale constitutional reform that many Poles believe is still necessary, this constitution provided for a separation of powers between the legislature, executive and judiciary. In addition, it formalized some terms of the round-table agreement, including provisions for free and fair elections.

As mentioned above, in 1987 Poland established a civil rights commissioner to serve as a spokesperson for civil rights. Originally set forth by statute, this position was incorporated into the constitution by amendment May 1989, giving it both greater protection from political interference and a heightened symbolic stature. Subsequently, the commissioner has served an important function in addressing human rights during the current period of transition, often guiding Poland towards fuller implementation of its international human rights commitments.

Poland joined the Council of Europe on November 6, 1991, subsequently signing the European Convention on Human Rights and Fundamental Freedoms. That treaty came into effect on January 19, 1993, providing recourse to the Council of Europe's legally-binding machinery in the event of alleged violations of civil or political rights. The Polish government has consistently signalled its intention to abide by decisions of the European Commission and Court; the treaty therefore serves as an important safeguard for Poland during a period of transition and signals Poland's commitment to fulfil its international obligations.

Efforts have been made to unravel the excessive centralization that was a trademark of East European and Soviet communism, and restore power—and responsibility—to local governments. In addition to the free and fair elections held at the local level in May 1990, several laws have been passed to guarantee local self-government. Poland has placed heavy importance on this facet of democratization and has, accordingly, sought to increase consideration of issues relating to local democracy in the CSCE process.

Prior to the 1990's, the Polish government maintained a policy of denial regarding the existence of minorities, estimated to make up approximately four percent of Poland's population. Most recently, the government has significantly reversed that practice, not only recognizing the presence of minorities in Poland but seeking to enhance the conditions under which minorities may protect and promote their ethnic, cultural, linguistic and religious identity. This has included the establishment of Belarussian, Czech, German, Lithuanian, Slovak and Ukrainian language schools, the sponsorship of some minority-language publications by the Ministry of Culture and Art, and the conclusion of a series of bilateral treaties with almost all of Poland's neighbors. Local radio stations in Belarussian, German, Lithuanian and Ukrainian communities also broadcast in minority languages. In addition, respect for fundamental freedoms for society as a whole has enabled minorities themselves to expand their independent publishing, undertake greater cultural activities, and participate in various kinds of associations.

Elections 1993—the Reversal of Reform?

In spite of Poland's achievements, the results of the September 1993 elections renewed fears that democratic reforms might not continue or, still worse, might be reversed. Although a mere 35 parties competed (down from 69 in 1991) with only five (plus one coalition) garnering sufficient support to be seated, the parliament remained deeply divided. Moreover, the Democratic Left Alliance—a party consisting largely of the same former communists who had been fully ousted from power only two years earlier—has emerged as Poland's leading party.

Poland, of course, has not been alone in its ability to win international headlines with its election results. Similar global shocks were felt in the aftermath of the electoral return to power of communists in Lithuania in November 1992, as well as the election of ex-communists and neo-fascists to office in Italy in November 1993 and nationalist extremists in Russia in December 1993. Not surprisingly, all of these events have prompted a sobering debate regarding the post-Cold War political prospects for Europe in general and about the fragility of reform in Eastern Europe and the former Soviet Union in particular.

In the specific case of Poland, analysts are now left wondering how is it that two parties whose members were so closely associated with a discredited, failed, unpopular system of government—the Democratic Left Alliance, coming in with 20.4 percent of the vote, and the Polish Peasant Party, with 15.4 percent of the vote—have emerged as the most popular parties in Poland. This question takes on even greater urgency in light of the relative success of Poland's economic transformation. With private-sector markets booming, inflation under control, and a forecasted economic growth rate in excess of 4 percent for 1994, Poland will not only have the fastest growing economy in Eastern Europe, but the fastest growing economy in all of Europe.

In general, the conventional wisdom has interpreted the Polish elections as a blow to reform not only in Poland but, by example, in other countries in the region that have undertaken or are considering undertaking similar measures. According to this view, the economic dislocations and hardships that have accompanied "shock therapy" have generated such widespread public dissatisfaction that a ruling party cannot maintain the necessary political support to continue these needed reforms—or at least, to continue them in a meaningful form. For too many people in Poland, the rise of capitalism has not meant economic opportunity, but high unemployment rates, growing income disparities, and a disappearing social safety net. But the real danger of these election results, it is cautioned by some, goes even further than the threat of unraveling Poland's economic progress. Populist unreconstructed communists, it is warned, may use their positions of power to reverse achievements in the political field, including Poland's move toward the rule of law and the establishment of democratic institutions.

While it is true that the support given to former communists is, to some degree, a protest vote against economic austerity measures, it would be wrong to focus too heavily on any one single factor contributing to the Polish election results without giving due acknowledgement to others. In fact, there are several additional elements which, together, enabled former communists to win a plurality. These include:

The Church: Poland is an overwhelmingly Catholic country, and the Church has a long and positive association with Poland's struggle for independence. Nevertheless, the priority given by some politicians to religious matters, at a time when the country has been facing pressing economic challenges, was resented by some members of the electorate. Contrary to public sentiment, some legislators in the previous parliament, posing as the self-appointed guardians of Catholicism, engaged in heavy-handed tactics to push

through a provision requiring religious education in schools, a media law that demands respect for the "Christian system of values," and an abortion ban that provides criminal penalties for both doctors and patients and is so restrictive that it may circumscribe pre-natal testing for birth defects, even when the defects in question may be treatable if detected at an earlier enough stage.

The abortion law, in particular, was consistently shown by opinion polls to be widely unpopular and the platform of the Democratic Left Alliance included a promise to lift the ban on abortions. (The Labor Union, a left-of-center post-Solidarity party, also ran a pro-choice campaign and won 10.59 percent of the vote). It is no surprise, then, that in free and fair elections those who supported such unpopular legislative measures might be subsequently defeated at the polls.

Women. Not only were women dissatisfied with the imposition of radical restrictions on abortion, they were also disproportionately vulnerable to the economic dislocation of shock therapy, exacerbated by continuing employment discrimination against them. Many women voters thus had at least two reasons to seek a change in the status quo. Efforts by left-of-center parties to capitalize on this sentiment led one journalist to quip cynically that "the communists are the Trojan horse for women's liberation." Although opinion pollsters are still in the process of analyzing the election results and documenting these demographic trends, the women's vote in Poland may have been a swing vote, as it is in some other countries.

Rural Voters. Approximately 40 percent of the Polish electorate comes from rural areas where frustration over the European Union's subsidized agricultural imports and barriers against Poland's competitive farm products has grown. The second place winner in Poland's elections, the Peasants Party (known for its post-World War II cooperation with the communists) has promised to fight fire with fire by protecting Polish farm workers with greater state subsidies and closing Poland's doors to foreign agricultural imports. Its support—15.4 percent of the vote—constitutes a protest against the previous government's open trade policy in the face of the EU's closed doors. The EU's apparent double standard regarding trade in steel and textiles also undermined the credibility of the more centrist, free-market parties in Poland. According to Josef Oleksy of the Democratic Left Alliance, "Poland's economy depends on fast export growth. How can the West expect us to grow and not buy our goods? This situation naturally contributed to estrangement of the workers and more votes for us."

Lustration. Many of the losers in Poland's election had promised to clean house of former communists and to impose justice on those who had participated in the former regime's most serious crimes. This rhetoric, however, had only limited appeal. Relative to other countries in the region, Poland's experience under communism was less severe and the thirst for revenge today is less intense. Many Poles seem to have concluded that the government's energy would be better placed in building the future than in rectifying the past. In addition, the government's mishandling of a list of alleged collaborators in the spring of 1992—a list of dubious reliability—heightened fears that efforts to punish former communists might turn into an indiscriminate witch-hunt, hurting innocent people along the way. While the Democratic Left Alliance is likely to permit the continued investigation and prosecution of those like the alleged murderers of Father Jerzy Popieluszko, it is unlikely to press for a more general accounting for past political wrongs.

Campaign Effectiveness. The two parties with roots in the communist era are credited with running effective, well organized campaigns based on pragmatic—not ideological—platforms. And parties on both the left and the right campaigned against the centrist parties in power, contributing to the defeat of the middle. In contrast, moderate leaders were accused of letting their personality differences dictate party

divisions; middle-of-the-road and reform candidates with relatively insignificant ideological differences chose to run on separate party lists, rather than pool their resources, and none of them received enough votes to be seated. Right-of-center parties likewise performed badly, mired in somewhat more substantive divisions than the centrists, and only the nationalist Confederation for an Independent Poland surpassed the requisite 5 percent threshold.

Because of the weakness of center and right-of-center parties, a total of 33.45 percent of the vote was cast for parties below the required threshold and subsequently allocated to the winning parties. This allocation had the effect of magnifying the power of winning parties relative to their actual support: for example, the Democratic Left Alliance and the Peasant Party won only 36 percent of the total vote cast for the Sejm (lower house), but secured control of 66 percent of the seats—a supra-majority capable of instituting constitutional change.

If, in fact, Poles voted for the Democratic Left Alliance believing it would halt or reverse the "shock therapy" in Poland, they will most likely be disappointed. The Democratic Left Alliance has not opposed the general direction of market reform in Poland; rather, it has sought to mitigate the hardships of continued reform through greater burden sharing of its social and economic costs. Alliance leader Alexander Kwasniewski has asserted, "[o]ur program has not a single thing that would remind you of Communism. If someone in our party proposed a return to a central command economy, he would have to be expelled, not for being a Communist but for being an idiot."

Thus, while the pace of the move toward a free market economy may slow, the new government will probably remain faithful to the basic economic framework followed by previous governments. In the political field, as well, a return to the repressive practices of earlier years is unlikely to occur. On net, the Polish transition to democracy has crossed the Rubicon: public institutions—from the Central Bank to the civil rights commissioner—have reached a sufficient maturity to ensure both their self-preservation and independent functioning.

CHALLENGES AHEAD

Of the East-Central European countries making the transition from communism, arguably Poland has come the farthest to date—reflecting in part its highly developed dissident movement in the 1980's and the fact that communism in Poland was never (even under martial law) as brutal as in some other countries in the region. As a consequence, however, expectations for Poland are high and, when human rights problems persist, they seem particularly out of step with Poland's otherwise impressive record.

Free Speech. Poland has a law which permits the imposition of fines and criminal penalties for those who insult a state body, including the president. Even more disturbing, the U.S. Department of State annual country reports on Poland have reported on several instances when this law has been invoked; the Lawyers Committee for Human Rights 1992 review of the State Department reports further noted that a prison sentence has been imposed in at least one case and that several other cases were pending at that time.

This law was recently invoked on March 18, 1993, when a regional court in Brzeg convicted two students of slandering the president. In responding to the charges against them, the students also complained that exculpatory evidence—relevant to the truth or falsity of their assertion that Walesa was an agent of the secret police—remained under state control, denying them adequate opportunities to defend

themselves. This law, inconsistent with Poland's human rights commitments, may chill free speech during a period of important political debate and development. It, along with other similar laws in Slovakia, Hungary, and Tajikistan, were criticized at the 1993 CSCE implementation meeting.

Independent Media. Although Poland has long had one of the most lively independent print medias in Europe, it is still struggling to establish an independent broadcast media and to revise its broadcast laws. A 1993 law requires public radio and television to "respect . . . the Christian system of values." Although it is not clear what authority would be the ultimate arbiter of what "Christian values" are, violating this provision may result in a fine and make renewing a broadcasting license difficult. This stipulation is incompatible with Poland's commitments regarding both freedom of religion and freedom of the press.

Lustration. Like all the countries in the region, Poland is grappling with the highly sensitive subject of what to do with its former communists, collaborators and secret police. On the one hand, there is a popular desire to see those former officials responsible for egregious human rights violations, particularly where deaths have occurred, held personally and criminally accountable and to safeguard democracy from a perceived continuing threat from those who participated in the former anti-democratic regime. On the other hand, there is fear that efforts to administer a Jacobin justice will undermine the very democracy that Poland has sought to establish.

Efforts to find a balance between these competing goals have not always succeeded. For example, the fall of the Olszewski government in June 1992 was associated with efforts to begin a purge of former security agents in the parliament. At that time, the mishandling of an ostensibly secret list of informers (of dubious reliability) underscored the danger that a genuine and legitimate desire to seek accountability and safeguard the transition to democracy may be subject to political manipulation. The parliament is still reviewing several pieces of proposed legislation designed to decide the fate of former high-ranking communists; it is uncertain whether the draft law will emerge with adequate consideration of due process guarantees, such as placement of the burden of proof on the state and access by the accused to exculpatory evidence in the state's possession.

Independent Judiciary. Although an independent parliament can be voted into office virtually overnight, not all changes in the government structures inherited from former regimes can be replaced or altered so quickly. Questions surrounding the judiciary have been particularly thorny.

After 1989, government reformers in Poland refrained from a wholesale purge of communist-era judges; many of those judges have since left the judiciary. Nevertheless, the continued presence of some hold-overs undermines full confidence in the Polish legal system, heightening fears that these judges, if still loyal to now-discredited notions of "socialist justice," may subvert democracy from within. Attempts to force the judges to leave the bench, however, raise the apprehension that they will be removed for political reasons in violation of protections of their independence.

The government has attempted to resolve this dilemma by enacting a law on September 9, 1993, that would permit the removal of judges for betraying the "principle of independence." Some human rights reporters have expressed the concern that this provision's ambiguity and potential for arbitrary interpretation will undermine the rule of law that this legislation is intended to protect.

Minorities. The Polish government has, in recent years, pursued a relatively enlightened minorities policy. Nevertheless, Poland, like many other CSCE countries, faces challenges to the safety and well-being of minority communities from non-governmental sources. For example, in 1991 there were violent attacks on members of the Roma (Gypsy) community in the village of Mlawa. In spite of the brutal nature of the assaults, the attacks resulted in only light sentences, giving rise to concerns that the government is insufficiently sensitive to the threat of ethnic, religious and linguistic intolerance and the dangerous signal that minimalist government responses may send.

CONCLUSIONS AND OUTLOOK

The reform process in Poland, begun in earnest in the 1980's, has been met with a number of worst-case scenarios that have yet to materialize: after the 1989 round-table agreements, it was feared that the communists had held on to sufficient control to thwart real change; after the 1991 elections, observers warned that the parliament was so factionalized that it would be unable to govern. Today, some commentators have speculated that the 1993 elections mark a resurgence of old-style communists with the threat of old-style communist human rights violations.

But the communists relinquished their monopoly on power in 1989 because they lacked a plan for a workable economy and needed to share with others the responsibility for introducing the painful reforms that would be necessary for Poland's economy to merely survive—let alone thrive. In that sense, the communists more than succeeded: the reformist governments to which they relinquished power have, over the last four years, put the economy on the road to long-term recovery. In the meantime, the former communists have reformed themselves.

In this regard, the difference between Poland's ex-communists and other ex-communists who still linger on elsewhere in the region should be underscored: many former communists in this region remain, in fact, unreconstructed communists who have changed in name only or who have mutated into nationalist extremists or fascists; most of Poland's ex-communists, while remaining to the left in the political spectrum, have genuinely changed their goals and their means of achieving them. Having learned to run effective electoral campaigns, they may now even emerge as the party that will see the economic and political programs of their immediate predecessors to fruition; along the way, they may mitigate some of the harsher elements of the shock therapy while remaining true to its overall direction, and, in the end, claim credit for its success.

This is not, of course, to suggest that the political field in Poland has gone permanently or irrevocably over to the Democratic Left Alliance—a party that, after all, won a mere 20 percent plurality. Other recently eclipsed political forces are likely to undergo a Darwinian transformation, either learning hard lessons and becoming stronger or disappearing into the history books. Both the center and the right have already begun to try to consolidate their support behind fewer parties with broader bases. The center parties in particular—whose divisions in the last election were based more on personalities than policies—are likely to reemerge as a force with which to be reckoned. And, in the next election, it will be the Democratic Left Alliance's coalition which will be held to account.

The transfer of power from communists to dissidents in Poland was not merely an exchange among elites. On the contrary, that passage reflected the culmination of dissident activity that had stretched back for decades and grew wide enough to encompass Solidarity's millions of members. Poland may be, in fact,

the one country in East-Central Europe whose current transformation is based on a genuine grass-roots, mass movement. Poles know, of course, that a great deal now rides on their ability to see this reform process through—not only in terms of ameliorating their economic well-being, but also in terms of their potential integration into Western structures such as the European Union and NATO. But the history of reform in Poland suggests that democracy has struck deep and strong roots; its chances for flourishing are good.